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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

KAMEISHA JOHNSON,) Case No.:
)
Plaintiff,) COMPLAINT FOR DAMAGES
) 1. VIOLATION OF THE
v.) TELEPHONE CONSUMER
) PROTECTION ACT, 47 U.S.C. §
) 227, ET. SEQ.
BLUESTEM BRANDS, INC. d/b/a)
FINGERHUT,) JURY TRIAL DEMANDED
)
Defendant.)
)

COMPLAINT

KAMEISHA JOHNSON (“Plaintiff”), by and through her attorneys,
KIMMEL & SILVERMAN, P.C., alleges the following against BLUESTEM
BRANDS, INC. d/b/a FINGERHUT (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. ("TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the State of California and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Oakland, California 94603.

6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is foreign corporation with its principal place of business located at 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344.

8. Defendant is a "person" as that term is defined by 47 U.S.C. § 153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that she has had for over a year.

11. Plaintiff has only used this number as a cellular telephone number.

12. Beginning in or around April or May 2016, Defendant began placing repeated calls to Plaintiff on her cellular telephone.

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and automatic and/or pre-recorded messages.

14. Plaintiff knew Defendant was using an automatic telephone dialing system and automatic and/or pre-recorded messages because Plaintiff received calls from Defendant that began with a delay or pause prior to speaking to one of their callers.

15. Defendant's telephone calls were not made for "emergency purposes."

16. Desiring to stop these repeated, unwanted calls, Plaintiff spoke to Defendant in or around July 2016 and revoked any previous consent that Defendant had to contact her.

1 17. Once Defendant was aware that its calls were unwanted and to stop,
2 there was no lawful purpose to making further calls, nor was there any good faith
3 reason to place calls.
4

5 18. In spite of her instruction to stop calling her cellular telephone,
6 Defendant continued to call.

7 19. Disgusted and unnerved by Defendant's incessant calling and failure
8 to stop contacting her, Plaintiff downloaded a blocking application to her cellular
9 telephone as a means to ultimately stop the calls.
10

11 20. Upon information and belief, Defendant conducts business in a
12 manner which violates the Telephone Consumer Protection Act.
13
14

15 **COUNT I**
16 **DEFENDANT VIOLATED THE**
17 **TELEPHONE CONSUMER PROTECTION ACT**

18 21. Plaintiff incorporates the forgoing paragraphs as though the same were
19 set forth at length herein.

20 22. Defendant initiated multiple automated telephone calls to Plaintiff's
21 cellular telephone using an automated message and/or prerecorded voice.
22

23 23. Defendant initiated these automated calls to Plaintiff using an
24 automatic telephone dialing system.

25 24. Defendant's calls to Plaintiff were not made for emergency purposes.
26

1 25. Defendant's calls to Plaintiff were made after Plaintiff had explicitly
2 revoked any consent that was previously given.

3 26. Defendant's acts as described above were done with malicious,
4 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
5 under the law and with the purpose of harassing Plaintiff.
6

7 27. The acts and/or omissions of Defendant were done unfairly,
8 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
9 lawful right, legal defense, legal justification or legal excuse.
10

11 28. As a result of the above violations of the TCPA, Plaintiff has suffered
12 the losses and damages as set forth above entitling Plaintiff to an award of
13 statutory, actual and trebles damages.
14

15
16 WHEREFORE, Plaintiff, KAMEISHA JOHNSON, respectfully prays for a
17 judgment as follows:
18

- 19 a. All actual damages suffered pursuant to 47 U.S.C.
20 §227(b)(3)(A);
21 b. Statutory damages of \$500.00 per violative telephone call
22 pursuant to 47 U.S.C. §227(b)(3)(B);
23 c. Treble damages of \$1,500 per violative telephone call pursuant
24 to 47 U.S.C. §227(b)(3);
25
26

- d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3);
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, KAMEISHA JOHNSON, demands
a jury trial in this case.

Respectfully submitted,

DATED: July 14, 2017

By: /s/ Amy Lynn Bennecoff Ginsburg
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